

REMARKS:

Claims 29-56 are currently pending in the application.

Claims 1-28 are currently canceled herewith, without prejudice.

Claims 29-56 are hereby added herewith.

Claims 1, 3-11, 13-20, and 22-28 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,460,038 to Khan *et al.* (“*Khan*”).

Claims 2, 12, and 21 stand rejected under 35 U.S.C. § 103(a) over *Khan* in view of U.S. Patent No. 5,931,900 to Notani *et al.* (“*Notani*”).

Applicants respectfully submit that all of Applicants arguments and amendments are without *prejudice* or *disclaimer*. In addition, Applicants have merely discussed example distinctions from the cited prior art. Other distinctions may exist, and as such, Applicants reserve the right to discuss these additional distinctions in a future Response or on Appeal, if appropriate. Applicants further respectfully submit that by not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are considered sufficient to overcome the Examiner's rejections. In addition, Applicants reserve the right to pursue broader claims in this Application or through a continuation patent application. No new matter has been added.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 1, 3-11, 13-20, and 22-28 stand rejected under 35 U.S.C. § 103(a) over *Khan* in view of the Examiner's Official Notice. Claims 2, 12, and 21 stand rejected under 35 U.S.C. § 103(a) over *Khan* in view of *Notani*.

However, Applicants respectfully submit that by canceling Claims 1-28, Applicants *have rendered moot the Examiner's rejection of these claims and the Examiner's arguments in support of the rejection of these claims*. Applicants further respectfully submit that new Claims

29-56 contain unique and novel limitations that are not taught, suggested, or even hinted at in *Khan*, *Notani*, or the Examiner's Official Notice, either individually or in combination. In addition, Applicants believe that the present invention is not disclosed or fairly suggested by *Khan*, *Notani*, or the Examiner's Official Notice, for at least the reasons discussed below.

The Proposed *Khan*-Official-Notice Combination Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants Claims

For example, with respect to new Claim 29, this claim recites:

An electronic commerce system for facilitating an electronic commerce transaction, the electronic commerce system comprising:

a plurality of seller databases, wherein each seller database is associated with a corresponding seller and different from other seller databases in the plurality of seller databases, including product data for one or more products;

a global content directory server coupled with the plurality of seller databases, the global content directory server providing a plurality of buyer computers access to the plurality of seller databases, the global content directory server comprising:

a storage medium stored therein a directory structure comprising a plurality of hierarchically organized product classes, each product class categorizing a plurality of products and defining one or more attributes of the products categorized in the product class, wherein one or more pointers are associated with each product class, each pointer identifying the seller database in the plurality of seller databases in which product data enabling a product transaction is stored for products categorized in the product class; and

a server search interface configured to communicate, in response to a selection of a product class by one of the plurality of buyer computers, a search query for product data to the plurality of seller databases identified by one or more pointers associated with the selected product class; and

in response to communicating the search query for product data to the plurality of seller databases identified by one or more pointers associated with the selected product class, receive address information associated with a seller database associated with a seller of the selected product, the seller database including product data for the selected product, wherein one of the plurality of buyer computers is configured to communicate with the seller associated with the seller database to conduct a commerce transaction relating to the selected product using the received address information

(Emphasis added). In addition, *Khan* or the Examiner's Official Notice, either individually or in combination, fail to disclose each and every element of new independent Claims 39, and 48.

Applicant respectfully submits that *Khan* fails to disclose, teach, or suggest Claim 29 elements regarding a “***plurality of seller databases.***”

In particular, the Examiner alleges:

Khan does not specifically state “...each seller database associated with a corresponding seller and distinct from other seller databases in the distributed plurality of seller databases...”

(14 May 2008 Office Action, page 5). (Emphasis Original). As noted above, the Examiner acknowledges and Applicants agree that *Khan* does not disclose a “***plurality of seller databases,***” as recited in Claim 29, as amended. (Emphasis added). However, the question is not simply whether *Khan* discloses a “***plurality of seller databases***” but whether *Khan* describes a “***plurality of seller databases***” *wherein each seller database is associated with a corresponding seller and different from other seller databases in the plurality of seller databases, including product data for one or more products*, as recited in Claim 29, as amended.

As clearly acknowledged by the Examiner, *Khan does not expressly describe a “plurality of seller databases”* of any kind. However, the Examiner alleges:

a database is any aggregation of data; a database is a file composed of records, each containing fields together with a set of operations for searching, sorting, recombining and other functions. For purposes of this examination, the term database will be given its broadest reasonable interpretation as an aggregation of data that may include logical and physical aspects of databases, including tables, files, views, etc.

(14 May 2008 Office Action, page 5). However, *Applicant can find no express description of a “plurality of seller databases”* in *Khan*.

Accordingly, *Khan* must inherently describe the claimed “***plurality of seller databases.***”

In that regard, the Examiner states Applicants claimed “***plurality of seller databases***” “will be given its broadest reasonable interpretation as an aggregation of data that may include logical and physical aspects of databases, including tables, files, views, etc”. (14 May 2008 Office Action, page 5). However, *Khan does not say*, as the Examiner appears to be suggesting,

that *each seller database is associated with a corresponding seller and different from other seller databases in the plurality of seller databases, including product data for one or more products.*

To the extent the Examiner means to argue that *Khan* might include each seller database associated with a corresponding seller and different from other seller databases in the plurality of seller databases or might include product data for one or more products and therefore *Khan* would inherently represent a “*plurality of seller databases*,” “[i]nherent anticipation requires that the missing descriptive material is ‘necessarily present,’ not merely probably or possibly present, in the prior art.” *Trintec Indus., Inc. v. Top-US.A. Corp.*, 295 F.3d 1292, 1295 (Fed. Cir. 2002) (quoting *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999)). *Applicant is unable to discern from the Kahn* that a “*plurality of seller databases*” is necessarily present in *Khan*. While it may be possible, “[i]nherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *Hansgig v. Kemmer*, 102 F.2d 212, 214 (CCPA 1939), quoted in *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1269 (Fed. Cir. 1991).

Furthermore, as noted above, *the question is not merely whether Khan* describes a “*plurality of seller databases*” but whether Khan describes a “*plurality of seller databases wherein each seller database is associated with a corresponding seller and different from other seller databases in the plurality of seller databases, including product data for one or more products*,” as described in Claim 29, as amended.

Accordingly, *Khan* does not inherently describe a “*plurality of seller databases*” as defined in Claim 29, as amended.

Thus, Applicant respectfully submits that Claim 29 is not rendered obvious by *Khan* because *Khan* fails to expressly or inherently describe a “*plurality of seller databases*,” as claimed in Claim 29, as amended. Applicant further respectfully submits that these distinctions alone are sufficient to patentably distinguish Claim 29 from *Khan*.

Thus, for at least the reasons set forth herein, Applicants respectfully submit that new Claims 29-56 are not rendered obvious by the proposed combination of *Khan*, *Notani*, or the Examiner's Official Notice. Applicants further respectfully submit that Claims 29-56 are in condition for allowance. Thus, Applicants respectfully request that Claims 29-56 be allowed.

CONCLUSION:

In view of the foregoing amendment and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Director to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing this Response to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

17 February 2009
Date

/Steven J. Laureanti/signed
Steven J. Laureanti, Registration No. 50,274

BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy., Ste. 101
Tempe AZ, 85281
214.636.0799 (mobile)
480.830.2700 (office)
480.830.2717 (fax)
steven@boothudall.com

CUSTOMER NO. 53184